

STATE OF MICHIGAN
COURT OF APPEALS

VALERIE WEATHERLY,
d/b/a VAL-VIL ENTERPRISES OF MICHIGAN,

Plaintiff-Appellant,

v

LONNIE ALLEN,

Defendant-Not Participating,

and

HTW INVESTORS,
a/k/a HT&W INVESTORS, LTD.,

Defendant-Appellee.

UNPUBLISHED
September 22, 2005

No. 254281
Wayne Circuit Court
LC No. 02-206304-CH

Before: Fitzgerald, P.J., and Cooper and Kelly, J.J.

PER CURIAM.

In this case arising from a tax sale, plaintiff appeals as of right the trial court's order dismissing her quiet title action and reinstating the statutory redemption period for property located at 9215 Ohio in Detroit. We affirm, but remand for the trial court's determination of the value of improvements made by plaintiff.

"An action to quiet title is an equitable action, and the findings of the trial court are reviewed for clear error while its holdings are reviewed de novo." *Fowler v Doan*, 261 Mich App 595, 598; 683 NW2d 682 (2004).

Plaintiff first argues that the trial court failed to make findings of fact and conclusions of law as required by MCR 3.411(D)(1), which states, in pertinent part, "[a]fter evidence has been taken, the court shall make findings determining the disputed rights in and title to the premises." We disagree.

Plaintiff was initially granted default judgment. However, defendant filed a motion to set aside this judgment asserting that it was not provided proper notice of the tax sale and redemption period. The trial court instructed the parties to brief the issues of whether defendant had standing and whether plaintiff properly notified defendant of the tax sale and redemption

period. The parties briefed these issues. Plaintiff also filed a motion for summary disposition on the basis of discrepancies in defendant's corporate name and its status as a corporation. After hearing testimony and reviewing the submitted evidence, the trial court determined that defendant had standing, and plaintiff failed to provide defendant with proper notice of the tax sale and redemption period. In a written opinion, the trial court stated that it found:

HTW Investors, a Michigan Corporation was the title holder of record of the property. The property was sold at a tax sale for non payment of 1996 county taxes. Plaintiff purchased the property at the sale.

The trial court further found that "proper notice was not provided as required under MCL 211.73 and MCL 211.140." It also found that the recorded deed provided sufficient information to allow plaintiff to properly serve notice on defendant. In a subsequent order, the trial court further specified that plaintiff "is denied title" to the property and defendant "is permitted to redeem said property." On the basis of this record, we conclude that, after evidence was taken, the trial court properly made "findings determining the disputed rights in and title to the premises."

Plaintiff next argues that the trial court erred in finding that she did not properly serve defendant pursuant to MCL 211.140 when it was impossible for her to properly serve defendant because the Wayne County Treasurer's Office incorrectly notified her that Lonnie Allen was the property owner and defendant was not properly registered as a corporation with the State of Michigan. We disagree.

The recorded warranty deed for the property indicates the name and address of the last grantee in the chain of title – "H.T.W. Investors, a Michigan Corporation." Further, the record demonstrates that plaintiff ultimately obtained a last known address for "HTW Investors," and defendant received mail at that address. We agree with the trial court that, exercising reasonable diligence, plaintiff could have properly served defendant with notice of the tax sale and redemption period.

Plaintiff finally argues that the trial court erred in failing to determine the value of the improvements that she made to the property and order defendant to reimburse her for those improvements pursuant to MCR 3.411. We agree.

The record demonstrates that plaintiff, in her motion for summary disposition, asserted that the trial court should quiet title in her favor or, in the alternative, determine the value of the improvements plaintiff made to the property and award her the amount of those improvements pursuant to MCR 3.411. Plaintiff presented evidence of the improvements made and the cost thereof. Defendant did not contest this issue. Before it issued its opinion, the trial court stated on the record:

So, if that notice was not proper and that HTW ought to have a period of redemption from now or from the order of the court, then there is an issue of what amount of redemption is because there is some allegations of improvement to the property and things of that nature which may necessitate further hearings.

The trial court wrote in its opinion that defendant “was the title holder of record of the property.” However, the trial court did not address the issue of reimbursement in its opinion. Nor did the trial court address this issue in the subsequent order “denying title to plaintiff and establishing statutory redemption.” On this record, we conclude that the trial court erred in failing to resolve the issue of reimbursements owed to plaintiff for improvements to the property.

Affirmed, and remanded to the trial court for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ E. Thomas Fitzgerald

/s/ Jessica R. Cooper

/s/ Kirsten Frank Kelly